REMARKS

The present amendment and request for reconsideration is filed in response to the Office Action mailed May 1, 2006, the period of response having been extended until November 1, 2006. Claims 21-24, 26-39 and 41-45 remain in this application; claims 25 and 40 have been canceled.

Applicant submits that amended claims 21-24 and 35-39 are supported by the previously presented claims 21-24 and 35-39.

In the Office Action, the Examiner rejected claims 21-45 under 35 U.S.C. 103(a) as being unpatentable over Cady (US 6,193,677 B1) in view of Rogers *et al.* (US 6,974,425 B2). Respectfully, the Applicant disagrees with the Examiner for the following reason.

Currently amended claim 21 recites:

"A device for assisting a patient in promoting the expectoration of secretions from the lungs, said device comprising:

a main unit including:

a microcontroller for generating digital electrical signals;

a user interface for adjusting the frequency of said digital electrical signals;

a Digital to Analog Converter for converting said digital electrical signals into analog signals

an adjustable amplifier for amplifying said analog signals;

a treatment interface operatively connected to the main unit, including:

an acoustic transducer for converting said amplified analog signal into acoustic waves; and

an acoustic coupling chamber coupled to said acoustic transducer, said acoustic coupling chamber creating <u>an enclosed gap between said acoustic transducer and an overlaying skin surface</u> of said patient when said treatment interface is applied to a chest cavity of said patient;

wherein said digital electrical signals have a frequency located in a range of about 30 Hertz to about 120 Hertz and said analog signals have a power located in a range of about 10 Watts to about 50 Watts **to efficiently promote the expectoration of secretions** from the lungs of said patient." [Emphasis added]

The Examiner states, at page 2 of his report that "Cady doesn't disclose the microcontroller having a frequency in the range of 30 Hertz to about 120 Hertz, the analog signals in a range of about 10 Watts to about 50 Watts, the duration of the pulse of the microcontroller being 0.5 seconds, the digital electrical signal having amplitude in a range of about 10 Watts to 50 Watts, the air gap being in a range of 1 to 2 inches, the acoustic coupling chamber being detachably coupled to the acoustic transducer, the diameter of the acoustic transducer being in a range of 3 to 6 inches or a digital to analog converter." and contends, at page 3 of his report, that "The range of the frequencies, the range of the Watts, the duration of the pulse, the range of the digital signal and the distance of the gap are all capable of being performed by Cady via adjustments being made."

Applicant submits that Rogers *et al.* does not disclose either a digital electrical signals have a frequency located in a range of about 30 Hertz to about 120 Hertz , analog signals have a power located in a range of about 10 Watts to about 50 Watts or an enclosed gap between said acoustic transducer and an overlaying skin surface **to efficiently promote the expectoration of secretions**.

Thus, Cady and Rogers *et al.*, taken either individually or collectively, fail to disclose a digital electrical signals have a frequency located in a range of about 30 Hertz to about 120 Hertz and an analog signals have a power located in a range of about 10 Watts to about 50 Watts **to efficiently promote the expectoration of secretions**, this is subject matter not disclosed by the references.

The Applicant therefore submits that amended claim 21 is patentable over Cady and Rogers, *et al.* taken either individually or collectively. Furthermore, the Applicant submits that claims 22-24 and 26-35 dependant on amended claim 21 are also patentable over Cady in view of Rogers *et al.* for at least the same reason.

Currently amended claim 36 recites:

"A device for assisting a patient in promoting the expectoration of secretions from the lungs, said device comprising:

a main unit including:

an adjustable frequency generator for generating electrical signals;

an adjustable amplifier for amplifying said electrical signals;

a treatment interface operatively connected to the main unit, including:

an acoustic transducer for converting said amplified electrical signals into acoustic waves; and

an acoustic coupling chamber coupled to said acoustic transducer, said acoustic coupling chamber creating an enclosed air gap between said acoustic transducer and an overlaying skin surface of said patient when said treatment interface is applied to a chest cavity of said patient;

wherein said electrical signals have a frequency located in a range of about 30 Hertz to about 120 Hertz and said amplified electrical signals have a power located in a range of about 10 Watts to about 50 Watts **to efficiently promote the expectoration of secretions** from the lungs of said patient." [Emphasis added]

The Applicant reiterates the arguments put forth for amended claim 21.

The Applicant therefore submits that amended claim 36 is patentable over Cady and Rogers *et al.* taken either individually or collectively for at least the same reason. Furthermore, the Applicant submits that claims 37-39 and 41-45 dependant on amended claim 36 are also patentable over Cady in view of Rogers *et al.* for at least the same reason.

Applicant respectfully requests favorable reconsideration of the present application

A fee for a three month extension is required, and the Commissioner is hereby authorized to charge this fee and any other fees under 37 CFR § 1.17 that may be due on this application to Deposit Account 17-0055. The Commissioner is also authorized to treat this amendment and any future reply in this matter requiring a petition for an extension of time as incorporating a petition for extension of time for the appropriate length of time as provided by 37 CFR § 136(a)(3).

Respectfully submitted,

Louis Plante

Dated: November 1, 2006

By: _____

Terri S. Flynn
Quarles & Brady LLP
Reg. No. 41,756
Attorney for Applicant
411 East Wisconsin Avenue
Milwaukee, WI 53202-4497
414/277-5229